



June 27, 2025

VIA CM/ECF

Hon. Kenneth M. Karas
Federal Building and United States Courthouse
300 Quarropas St.
White Plains, NY 10601-4150

Re: *Empire Trust, et al. v. Joseph R. Cellura, et al.*
Case No. 7:24-cv-00859-KMK

Dear Judge Karas:

The parties write jointly in response to the Court's Memo Endorsement (Doc. 92) requesting the parties' position as to "whether and how the passing of Mr. Cellura affects the Action and Defendants' pending Motion to Dismiss."

Counsel for the parties have conferred and are in agreement that no action can be taken as it relates to Mr. Cellura unless and until a motion for substitution is filed pursuant to Rule 25(a) naming Mr. Cellura's successor or representative as a party. Counsel for Defendants filed a Suggestion of Death (Doc. 93) on June 24, 2025. Accordingly, Plaintiffs have until September 22, 2025 to file such a motion or the action shall be dismissed as against Mr. Cellura pursuant to Rule 25.

While Mr. Cellura's death does not automatically stay this action as it relates to the remaining Defendants, because the pending motion to dismiss was filed jointly by Defendants, the parties agree that practically unless and until a motion for substitution is filed, the Court is not able to enter an order on the pending motion to dismiss.

In light of the above, the parties jointly request that the Court stay the action pending any motion for substitution. The pending motion to dismiss would then be resolved after the motion for substitution is decided. In the event a motion for substitution is not filed by September 22, 2025, the claims would be dismissed as to Mr. Cellura and the Court could at that time resolve the pending motion to dismiss as to the remaining defendants.

Thank you for your courtesies.

Richard M. Scherer, Jr. | Partner | rscherer@lippes.com

50 Fountain Plaza, Suite 1700, Buffalo, NY 14202 Phone: 716.853.5100 Fax: 716.853.5199 lippes.com
New York: Albany, Buffalo, Clarence, Long Island, New York City, Rochester, Saratoga Springs, Syracuse // Florida: Jacksonville, West Palm Beach
Illinois: Chicago // Ohio: Cleveland // Oklahoma: Oklahoma City // Ontario: Greater Toronto Area // Texas: San Antonio // Washington, D.C.



Respectfully submitted,

LIPPES MATHIAS LLP

/s/ Richard M. Scherer, Jr.

Richard M. Scherer, Jr.
Counsel for Defendants

WOODS LONERGAN PLLC

/s/ Lawrence R. Loneragan

Lawrence R. Loneragan
Counsel for Plaintiffs Michael F. Ghiselli, Baynon International Corporation n/k/a Global Brands Capital Corp., ADMI, Inc. and SIR Inc.

LURIE & KRAMER

/s/ Barak Lurie

Barak Lurie
Counsel for Plaintiff Bruce Houle

So Ordered.

6/27/25